



# California Regional Water Quality Control Board

## Central Valley Region

Robert Schneider, Chair

Winston H. Hickox  
Secretary for  
Environmental  
Protection

Sacramento Main Office  
Internet Address: <http://www.swrcb.ca.gov/~rwqcb5>  
3443 Rautier Road, Suite A, Sacramento, California 95827-3003  
Phone (916) 255-3000 • FAX (916) 255-3015



Gray Davis  
Governor

10 April 2002

CERTIFIED MAIL

7000 1670 0007 7468 3996

Mr. Henry Tosta  
20662 S. San Jose Road  
Tracy, CA 95376

### NOTICE OF VIOLATION

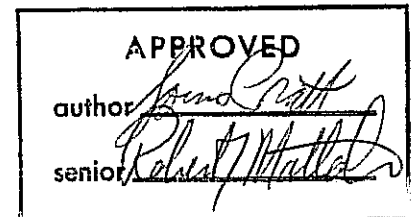
An inspection was conducted at your dairy on 28 March to determine what steps had been taken to abate the discharge of wastewater found on 1 March, and what steps are being taken to bring your dairy into compliance with the Confined Animal Facilities Regulations. The inspection revealed discharges of wastewater and no significant improvements. A copy of the inspection report is enclosed for your records.

The discharges of wastewater into the Naglee-Burke Drain are violations of the Federal Clean Water Act as well as the Confined Animal Facilities Regulations in Title 27 of the California Code of Regulations. These violations are subject to enforcement action under Federal statutes as well as State statutes. Enforcement action is being considered at this time.

If you have any questions, Please contact Louis Pratt at (916) 255-3110.

ROBERT J. MATTEOLI  
Senior Water Quality Control Engineer

Enclosure



cc: David Irej, Deputy District Attorney, Stockton  
Lt. Dennis DeAnda, Department of Fish and Game, Rancho Cordova

# CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

## INSPECTION REPORT

29 March 2002

**DISCHARGER:** Henry Tosta Dairy  
**LOCATION & COUNTY:** 20662 S. San Jose Road, Tracy, San Joaquin County  
**CONTACT(S):** Henry Tosta  
**INSPECTION DATE:** 28 March 2002  
**INSPECTED BY:** Louis F. Pratt  
**ACCOMPANIED BY:** Lt. Dennis DeAnda, DFG

### OBSERVATIONS AND COMMENTS:

This inspection was conducted jointly with the Department of Fish and Game at the request of Lt. DeAnda to determine whether the discharges documented on 1 March had been abated and to determine what, if any, steps had been taken to prevent further discharges of wastewater into the Naglee-Burke Drain. The inspection revealed at least seven discharges of wastewater from the field east of the dairy into the drain. Other than a few shovels full of soil that had been placed in a futile effort to stop the discharges observed on 1 March, no work had been done to abate the discharges or to prevent them. On 1 March, Mr. Tosta stated that he would bring in soil and build up a bank between the field and the drain. This had not been done. On 1 March, Mr. Tosta stated that he would pump wastewater into the new waste pond, which was not being used. Even though some wastewater was being pumped into the new waste pond, wastewater was still being pumped onto the field.

Electrical conductivity readings taken were as follows (all readings are in micromhos/cm):

|   |                             |
|---|-----------------------------|
| Water ponded in the north lateral above the discharge (no flow) | 4800 (clear)                |
| Discharge to the north lateral, 50 yards above the main drain   | 4400 (approximately 5 gpm)  |
| Discharge to the north lateral, 25 yards above the main drain   | 4600 (approximately 10 gpm) |
| Discharge from north lateral into the main drain                | 4500 (approximately 20 gpm) |
| Main drain above the discharge                                  | 3900 (clear)                |
| Main drain at San Jose Road                                     | 4800                        |
| Main drain at Reeve Road  | 4700                        |
| Main drain at Bethany Road                                      | 5000                        |

The water in the main drain from the discharge to Bethany Road had the same color and turbidity of the dairy wastewater being discharged. A pump at Bethany Road discharges the water from the drain into Old River.

Approved: 

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During the inspection, Mr. Tosta began bringing soil into the area along the drain to build up a bank as he had proposed earlier.

I spoke with Mr. Juan Martinez, operator of the pumping station on Wicklund Road. He verified that the Naglee-Burke Drain is pumped into Old River and does not flow into the cut to the west.

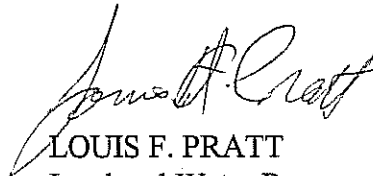
Photographs were taken. Samples were taken and were delivered to the Department of Fish and Game Water Pollution Control Laboratory and California Laboratory Services for analysis.

The drain is approximately one mile in length from the discharge to Bethany Road. The drain is wide and quite deep just above Bethany Road. However, the average width is approximately 10 feet and the average depth is approximately one foot. The rate of flow at Reeve Road was approximately 200 gpm (the discharge being approximately 20 gpm is thus approximately 10% of the total flow). Therefore:

$5280' \times 10'sq \times 7.5 \times .1 = 39,600$  gallons of wastewater between the discharge and Bethany Road.

**SUMMARY:**

The dairy continues to be operated in violation of the Clean Water Act and Section 22562 (a), Subchapter 2, Chapter 7, Division 2, Title 27 of the California Code of Regulations.



LOUIS F. PRATT  
Land and Water Resource Specialist

Approved: 